

RETURN

(110b)

To an Order of the House of Commons, dated the 23rd January, 1911, for a copy of the full report and finding of the Curator of the Farmers' Bank, up to the time of his appointment as liquidator of the same by the shareholders for the requisition of which authority is given to the Minister of Finance by Section 122 of the Bank Act.

CHAS. MURPHY,
Secretary of State.

TORONTO, January 7, 1911.

IN THE MATTER OF THE FARMERS' BANK OF CANADA.

INTERIM STATEMENT OF AFFAIRS

As of December 19th, 1910.

LIABILITIES.

Direct.

Suspended Payment December 19, 1910

Amounts owing to depositors and holders of drafts at

Allenford branch.	25,753	18
Arkona branch.	43,023	82
Athens branch.	19,626	70
Belleville branch.	35,995	53
Bethany branch.	55,342	24
Burgessville branch.	41,773	48
Camden East branch.	72,309	17
Cheltenham branch.	36,600	69
Dashwood branch.	113,021	81
Dunsford branch.	34,562	25
Embro branch.	74,626	36
Fingal branch.	33,589	87
Haileybury branch.	25,473	98
Kerwood branch.	67,903	17
Kinmount branch.	33,902	38
Lakeside branch.	32,222	60
Lindsay branch.	38,176	17
Millbank branch.	66,630	61
Milton branch.	30,452	25
Norval branch.	39,129	76
Phillipsville branch.	37,682	73
Pontypool branch.	47,992	41
Sharbot Lake branch.	52,797	77

1 GEORGE V., A. 1911

Stouffville branch..	24,733 88
Williamstown branch..	25,930 18
Zephyr branch..	55,749 88
Toronto branch..	87,772 04
Accrued interest to December 19, 1910..	19,000 00
Reserve for sundry claims..	10,000 00
 Total..	 \$1,281,774 91

Preferred claims—

Farmers' Bank notes in circulation as per head office books and branch returns..	\$538,365 00
Branch salary and charge accounts..	3,558 05
Rentals due at branches together with claims for penalties under terms of leases..	1,530 86
Ontario Government deposit..	26,533 16
 Total..	 \$569,987 07

Secured claims—unsettled—

Trusts and Guarantee Company, Limited, Toronto, advances on demand notes..	\$211,838 26
Secured by hypothecations of customers' paper.. . .	293,526 31
 Surplus carried to assets..	 \$ 81,688 05

Other securities held and included under assets in this statement:—

Bonds of Keeley Mines, Limited..	\$1,000,000 00
Other industrial bonds..	75,000 00

Capital stock—

Capital stock subscribed as per list..	\$584,500 00
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ASSETS.

Dominion of Canada notes..	\$ 10,048 50
Specie..	7,271 95
Notes and cheques of and on other banks..	55,144 22
Balances due from other banks in Canada..	10,738 10
Balances due from agents in United Kingdom..	6,189 26
Balances due from other foreign agents..	5,030 89
Cash items on hand and in transit..	46,286 31
 Total..	 \$ 140,709 23

Deposit with Dominion Government to secure note circulation..	20,250 00
Stocks and bonds..	113,895 00

Surplus in customers' papers held by Trust and Guarantee Co..	\$ 81,688 05
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Current loans, discounts and past due bills held at head office and branches..	\$684,130 04
Interim valuation..	241,434 84

\$323,122 89

SESSIONAL PAPER No. 110b

Claims for withdrawals after suspension..	47,000 00
Bank premises, fixtures and furniture (book value)..	178,604 90
Stationery on hand estimated value..	2,500 00
Due upon capital stock..	16,921 00
Other assets as per list..	1,146 57
Keeley Mines, Limited:—	
Current loans and overdrafts..	\$321,100 46
Call loans..	300,000 00
	—————
(\$1,000,000.00 bonds held as Security therefor)	\$621,100 46
Stocks and bond account..	535,000 00
	—————
	\$1,156,100 46
	—————
Total..	\$2,000,250 05

SUMMARY.

Assets—

As above..	\$2,000,250 05
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Liabilities—

Depositors and holders of bank drafts..	\$1,281,774 91
Preferred claims..	569,987 07
Secured claims no ranking..	
Capital stock..	584,500 00
	—————
	2,436,261 98

Nominal deficiency..	\$436,011 93
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G. T. CLARKSON.

C. R. C. CLARKSON & SONS,

*Curator and Interim Liquidator,
Toronto, Ontario.*

IN THE HIGH COURT OF JUSTICE.

In the matter of the Farmers' Bank of Canada and in the matter of the Winding-Up Act.

Pursuant to the order of Mr. Justice Riddell made in this matter on the 24th day of December, 1910, a meeting of the creditors of the Farmers' Bank of Canada will be held at the Board Room of the said bank in the Stair Building, corner of Adelaide and Bay streets, Toronto, on Tuesday, the 17th day of January, 1911, at 11 o'clock in the forenoon, and on the same day at the same place, at 2.30 o'clock in the afternoon, a meeting of the shareholders will be held, the purpose of such meetings being that the wishes of the creditors and shareholders respectively may be ascertained as to the appointment of liquidators under the Winding-Up Act.

By the same order the further consideration of the petitions presented herein was adjourned until Monday, the 23rd day of January, 1911, at 10 o'clock in the forenoon and the said petitions will then be heard by the Hon. Mr. Justice Riddell in Chambers.

1 GEORGE V., A. 1911

at Osgoode Hall in the city of Toronto, and notice of such hearing is pursuant to the said order hereby given to all parties entitled to be heard.

Dated this 24th day of December, 1910.

F. ARNOLDI,

Clerk in Chambers.

BICKNELL, BAIN, STRATHY & MACKELCAN,
Lumsden Building, Toronto, Ont.,
Solicitors for Petitioner.

THE FARMERS' BANK OF CANADA.

MEMORANDUM of Report to Meetings of Shareholders and Creditors, held on the 17th day of January, 1911.

The notice calling the meeting, which notice was issued by the High Court of Justice, was read, and, upon motion, Mr. Tyson was appointed secretary, Mr. G. T. Clarkson being chairman by virtue of the order of the Honourable Mr. Justice Riddell.

The chairman read the interim statement of affairs as attached, and, in connection therewith, said:—

The liabilities first shown upon the statement of affairs are those due to depositors in, and holders of drafts issued by, the various branches of the bank. As you will see, the total amount of deposits and drafts is \$1,281,774.00, which includes interest up to the 19th December on interest bearing accounts; of this \$1,281,774.00, the amount of the savings was \$992,490.00, and current accounts \$289,284.00. The amount of deposits allocated to Toronto branch includes a deposit of J. S. Saunders, of this city, who withdrew \$45,000.00 of it from the bank on the date of suspension. Acting on the advice of counsel suit was commenced against Saunders for the return of this money, and it now rests with the courts to determine whether he is entitled to hold it or not. The money was paid to him in Farmers' Bank bills, which are now in the hands of a bank of this city, pending determination by the court. Included in the Haileybury returns is a claim for \$2,000.00, withdrawn under similar circumstances by one Robins, and against him action has also been taken. Further action will be taken in regard to another amount of \$600.00 withdrawn on the same date, and question has arisen with regard to certain withdrawals at one of the branches. These matters will all require to be carefully looked into.

There are a number of questions to be considered in respect to deposits and claims on drafts. In instances where deposits were made on the day of the suspension, and a few days prior thereto, cheques and drafts, and which were in transmission for collection at the time of the suspension, have been stopped payment of. I have been advised that the bank is entitled to collect on these cheques, but as there is contention on the point, a writ has been issued in one instance where \$6,400.00 is involved, so that the question may be determined by the court. If the court holds that the bank is not entitled to the moneys, the cheques will have to be returned to the maker, and, on the other hand, if judgment is given in favour of the bank, the amount of these cheques will have to be paid by the depositors and makers.

In instances where deposits were made on the date of suspension, questions have arisen as to whether the same were made before or after the suspension, and, as the exact hour of the suspension is somewhat in doubt, the court will have to determine the question; all depositors who made deposits on the 19th instant are, therefore, requested to give full particulars of the same to the bank, so that their claims may be looked into when the question has been decided.

Depositors whose deposits bore interest are entitled to have the interest added to their accounts up to the 19th December. In order to facilitate the filing of claims, a

SESSIONAL PAPER No. 110b

statement will be sent out from the bank naming the amounts at the credit of each depositor, inclusive of interest, so as to obviate the expense and trouble to which depositors would be put if required to file sworn claims. Of necessity, this will take a little time to do.

Questions are arising as to the rights of depositors to offset the amounts of their deposits against overdrafts and notes held by the bank, and this matter will be brought before the court in the winding-up proceedings at the earliest possible moment. In the meantime, any depositor having a note or overdraft due to the bank is advised to pay the difference between the amount to his credit and the amount of such note or overdraft, so as to facilitate the collection of assets. The payment of the balance can rest until the question of the right to offset has been determined.

Payments due on capital stock are in the same position, but depositors are not legally entitled to offset the amounts which may become due by them on double liability against their deposits and overdrafts.

With reference to the claims of those who held drafts issued by the bank, would say that the bank held a note on collection for any person or firm, and such collection was held by the bank, in trust, and not for value given, the owner of the bill may be entitled to recover the amount collected by the bank if the payment received by the bank was on hand at the time of suspension in its original form, so as to distinguish it from the other assets of the bank. Where, however, drafts were purchased from the bank for the purpose of remitting money the holders of such drafts are merely ordinary creditors against the estate.

I draw your attention to the last item on the first page, 'Reserve to cover sundry claims,' such amount has been added to the liability of the bank to cover contingent liabilities such as law costs, advertising, supplies purchased, etc., and claims have already been filed to an extent which would seem to indicate that the reserve will be largely, if not wholly, used up.

Preferred claims.—With respect to preferred claims, would say that according to section 131 of the Bank Act, the notes issued by the bank constitute a first charge upon its assets; according to the books of the bank the bank has obtained from the Bank Note Printing Co. \$825,000 bank notes, and the amount of the same on hand at the time of suspension was \$286,635, leaving outstanding \$538,365, and this amount, together with interest from 19th December, is a first lien upon the assets.

The second lien upon the assets is the amount of the deposit with the Ontario Government \$26,533.16, and it is a lien by virtue of clause C, section 131, of the Bank Act, which makes it a preferred claim.

No particular comment need be made on the item for branch salaries and charge account, as it states the amounts owing to the officers of the Bank at the time of suspension.

The preferred claims will all have to be paid in full before any dividend can be paid to other creditors.

Secured claims.—The secured claims consist of a claim of the Trust and Guarantee Company secured by hypothecations of Keely Mine bonds, other industrial bonds and customers' paper. The Trust and Guarantee Company appeared to have advanced to the Bank in February, 1910, the sum of \$75,000, at which time it took as security \$120,000 stock in the American Piano Company, which stock was subsequently sold for \$85,000. The stock had been hypothecated to the Bank as collateral to a call loan and under the terms of agreement the Bank may be able to claim on the maker of the call loan for the deficiency. Whether it will recover anything or not is another question. On July 30, 1910, the Trusts and Guarantee Company appear to have loaned to the Bank another amount of \$100,000, at which time it is said that the Bank hypothecated to the Trust Company Keeley Mine bonds amounting to \$1,000,000, which had been left with the Bank by the Mining Company as security for the debt due by the

Mining Company to the Bank. These two advances were used by the Bank in meeting obligations and it is also said principally in meeting its clearing house balances.

The Trust and Guarantee Company was also depositing in the Bank to an extent and in a re-adjustment of the accounts between the Bank and the Trust Company had obtained a deposit receipt for \$120,000. It claims to be entitled to hold the securities which it obtained on the other two advances as security also in connection with the deposit receipt under the terms of agreement with it. Nevertheless, it began to press the Bank for further security with the result that on November 3 last a transaction was put through by which the Trust and Guarantee Company purported to advance to the Bank \$295,000, for which it claims it was given as security \$300,000 of customers' paper, \$1,000,000 Keeley Mine bonds and \$75,000 industrial bonds. Out of this advance of \$295,000, it then purported to pay its two loans of \$75,000 and \$100,000, also its deposit receipt of \$120,000. Inasmuch as the transaction involves a large amount of money and had the practical effect of preferring those creditors who received payment as the results of the advances being made, the validity of the transaction with the Trust Company has not been admitted, but steps are being taken to insure that the rights of the creditors of the Bank are protected until such time as the transaction can be more effectually gone into. The transaction will be gone into in the course of the liquidation proceedings.

Capital stock.—The subscribed capital stock of the Bank appears according to its books to be \$584,000 and upon it \$16,921 would appear to be unpaid at this date. I am of the opinion that examination will show further stock unpaid.

When discussing the matter of capital stock I think it right to inform you as to what I have learned regarding the incorporation and formation of the Bank, including the obtaining of its certificate from the Treasury Board. According to the Bank Act it is necessary for any bank seeking incorporation to have the sum of \$500,000 capital stock subscribed in a bona fide manner and, at least, \$250,000 cash paid upon such bona fide subscription. The charter of this bank had been obtained about two years before it held its organization meeting and there was danger of it expiring. The organization meeting was called for the 26th November, 1906, and it is said that shortly before the meeting some of those persons who were to have been actively identified with the Bank, withdrew, and their withdrawal made the subscription list deficient. To overcome this, it is said that certain subscriptions were added to the list, particularly one of \$50,000, and antedated, so as to make the subscription list regular, and permit the obtaining of the certificate to do business. At the time of the organization meeting on November 26, 1906, the stock subscription book of the Bank shows that it had subscriptions for \$579,000 worth of stock, including the subscriptions previously spoken of. Of these subscriptions it is said that between \$50,000 and \$75,000 were worthless and uncollectable, being subsequently cancelled, and, in addition, there was a further amount of stock cancelled, and it would appear that of the \$579,000 stock, between \$125,000 and \$150,000 was in all cancelled after the certificate had been obtained.

In addition to having the subscriptions to the amount mentioned, it was necessary for the bank to have received in payment thereupon the sum of \$250,000. The subscription books show that the provisional board had \$291,310, and amounts are allocated as payments on each subscription sufficient to produce the total. It is conceded that in very many cases such payments had not been made by subscribers, and that what really happened would seem to be as follows: The directors had collected about \$211,000 from subscribers in cash, but out of it they had paid \$41,000 for expenses, leaving in their hands \$170,000. They then turned over subscribers' notes to W. R. Travers, who was in control of the provisional board, and he in his own name borrowed on these notes \$80,000, which amount, with the \$170,000 mentioned, made up the \$250,000 necessary for the government deposit. The money was then transferred to the Receiver General, and when he returned \$245,000 to the bank, the amount was deposited with the Traders' Bank, and out of it \$80,000 was

SESSIONAL PAPER No. 110b

checked out to the Trust and Guarantee Company, who held it apparently on deposit for the benefit of the bank. Checks were issued out of this amount to the Trust and Guarantee Company for the full amount in three payments, and they released the subscribers' notes left with them by Travers. The bank, therefore, was left with but \$170,000 of actual paid up capital and the subscribers' notes; it is apparent, therefore, that the certificate was obtained by an evasion of the Bank Act, if nothing worse.

In as much as the stock of the bank was at that time sold at par, it will be apparent that when the bank commenced business its liabilities were greater than its assets by the \$41,000 paid out for organization expenses. To cover this up, certain entries were put through the books and a note given by the general manager, which note was afterwards charged up to the Keeley Mines Stocks and Bonds Account. Under these conditions it is apparent that the returns to the government were misleading from the start.

It is apparent that several transactions have taken place in connection with the capital stock of the bank, which will need to be very closely examined into. At one time the subscribed capital of the bank was returned as \$1,000,000, being afterwards reduced to the figures it now rests at. It would appear that the increase was due to a certain transaction which was entered into with a concern known as the Continental Security Company of Winnipeg, which company it is said had no responsibility under the terms of which it subscribed for \$510,000 of stock of the bank, and was allowed an overdraft to the amount of \$538,000 by the bank in order to permit it to pay for the stock; the securities company were also allowed a further overdraft to the extent of \$150,000, and out of the same it paid certain notes held by the bank for stock subscribed for by other people, took up notes given to the bank in order to hide expenditure on organization account and covered a large amount transferred to the credit of the general manager for his personal account; this latter forms part of the claim against him for theft.

The total amount of the overdraft allowed in the Toronto office books was \$687,000, including a large amount for interest which the bank took the benefit of as a profit when it in reality was not earned or paid.

When it became apparent that the Continental Securities Company could not carry the transaction through, some \$50,000 or \$60,000 of the stock subscribed for by it was sold to other parties and paid for; the balance was cancelled and written off the books, and a large amount charged up to the Keeley Mine Stocks and Bonds Account in order to clear up the transaction; the stock was in this manner reduced. I regard the whole transaction as most irregular and improper, and there certainly will be a liability to the bank on the part of various persons in connection therewith; how much the bank will benefit out of the same is a question—I am afraid it cannot look for any substantial recovery; the whole matter, however, is one that will have to be gone into to the fullest detail in the proceedings before the court.

ASSETS.

The first five items of the Assets constitute what are called Cash Assets, and represent either cash or liquid securities. These assets should be expected to yield par value, but in some instances Creditors of the Bank who hold drafts and notes for collection claim to be entitled to retain the same in satisfaction of their claims, which are included in the liabilities. In instances, also, payment has been refused upon cheques in the hands of the bank, and suit has been undertaken against some of the makers for the purpose of determining whether they have any right to do so.

The deposit with the Dominion Government will be held by it to secure the note circulation, and when the notes have been paid, returned to the bank for the benefit of creditors generally.

The stocks and bonds consist of industrial bonds which were believed to be worth the amount stated at the time the statement was made. The undertakings they cover,

1 GEORGE V., A. 1911

however, are subject to vicissitudes of business, and it is possible that the bank may not be able to realize its entire investment therein, but it is hoped that it will do so to a very large extent.

The surplus in customers' paper held by the Trust and Guarantee Company is the amount which is expected will be realized from the same. Since the statement was prepared, it has been apparent that on some of this paper there will be a loss, and therefore, the item will probably not be realized in full.

The current loans, discounts and past due bills held at the Toronto office, and branches, amount to \$684,130.04, and I have valued the same, to the best of my ability, with the information which the bank's officers are able to give me, at \$241,434. The discounts include a number of accounts upon which it is certain that the bank will make heavy losses, and I hardly hope to procure more than the amount of the valuation from the same. It is not in order to discuss the details of these loans; as it would be prejudicial to the interests of the creditors to do so, but I think I am doing no wrong in saying to you that there is one instance in which the bank will lose \$100,000 on a single account.

Claims for withdrawals after suspension are those in connection with suits which have been brought for the return of money taken out of the bank on the day of suspension. As matters are now before the court I am not in a position to say more to you than that the bank claims to be entitled to a refund of these funds, for the general benefit of the creditors, on the ground that the withdrawers received unjust preference.

Bank Premises.—The cost of the bank premises has been put into the statement at the amount charged in the books, but this amount is undoubtedly in excess of the cash expenditure of the bank in that behalf, and I do not look to the estate recovering more than between \$60,000 and \$70,000 for the whole of the item. There have been irregularities in connection with this account, and items of very considerable amount have been charged to it in order to cover expenditures in other directions. The whole of the transactions in connection with this item call for the closest scrutiny, and it is one of the matters which will have to be gone into carefully in the examination which will be held before the court.

Stationery on Hand.—This item appears in the books of the bank as \$30,000, nothing having been written off it since the date of its purchase, although it was constantly being used, and the supply thereby diminished. I have therefore placed it at \$2,500, which is merely a rough estimate. The amount due upon capital stock, \$16,921 represents the amount due upon subscription.

The other assets consist of claims under guarantee bond and deposit for \$500.

Re Keeley Mine.—Discussing the item of the Keeley Mine account, I think it right to inform you rather at length as to the history of this company and its connection with the bank, so far as I am able. It would appear that Beattie Nesbitt, on the 18th April, 1908, obtained an option on the property at the price of \$300,000, payable \$50,000 on the 18th May, and the balance in instalments spread over a period of time. On the 18th May, Nesbitt entered into an agreement under the terms of which Wishart Travers, and the Farmers' Bank were to participate in all benefits received by him from the option, and on the same day, he executed an additional agreement to the effect that he was not to deal with the option without the consent of the Farmers' Bank of Canada. In May 1906, the Keeley Jowsey Wood Mine Limited was formed, and, at a meeting of the Provincial Directors held in May, a resolution was passed by the Board to purchase the option mentioned from Dr. Beattie Nesbitt, and to issue to him \$999,975 stock, out of a total of \$1,000,000 in payment therefor, and on the same day, George Wishart was elected President, Dr. Beattie Nesbitt, Vice-President, the third Director being W. R. Travers.

SESSIONAL PAPER No. 110b

On the 20th May, the bank made an advance to George Wishart of \$25,397, and also to the Keeley Jowsey Wood Mine of \$25,000, apparently to take care of a payment to be made under the terms of the option agreement. From this time forward, the bank continued to advance to the mine, and, so far as I can ascertain, no other money, except the bank's money, ever went into the mine.

According to the by-laws of the bank, the Managing Director was prohibited from lending more than \$10,000 to any person, firm or corporation, without specific authority of the Board. In June, 1908, a credit of some amount of four figures was given to the Keeley Jowsey Wood Mine Limited, and approved of by the Board of Directors; subsequently, the minute authorizing this advance, was changed, so that, in its changed form, it permitted the General Manager of the bank to advance to the mine in his discretion. It is claimed that the change in this minute constitutes a forgery, and a claim has been laid against the late manager of the bank in connection therewith.

The bank continued to advance to the mine in large amounts until December 4, 1908, when, at a meeting of the shareholders, at which were present Wishart, Nesbitt and Travers, authority was given to sell the assets of the Keeley Jowsey Wood Mine Limited to the Keeley Mine Limited, on condition that the stock in the latter company be issued one-fifth to Travers, one-fifth to Wishart, one-fifth to Beattie Nesbitt, one-fifth to the Farmers' Bank of Canada and the remainder to remain in the treasury.

On June 10, 1905, the shareholders of the Keeley Jowsey Wood Limited confirmed this, and appointed the Chief Accountant of the Bank, liquidator of the company.

The Keeley Mine then took over the property and W. R. Travers as secretary thereof obtained moneys from the bank until the obligation of the mining company for cash advanced now appears to amount to \$621,000. Included therein are two items amounting to \$35,000, the proceeds of which did not go to the benefit of the mining company, but to Travers personally. Transactions connected with the procuring of this money are now under consideration by the Crown authorities.

The accounts of the mining company would seem to indicate that, with the exception of the \$35,000 above mentioned, and three hundred thousand dollars paid for the property, the advances made by the bank to it was expended on the property. Considering, however, the large amount of money advanced by the bank to the mining company, creditors and shareholders will not be content to accept the auditor's statements, but it will be necessary to investigate expenditures of the mining company in order to ascertain whether any diversion of money for other purposes was made.

In considering advances made by the bank to the mining company by way of loans, you will notice from what I have said that there was a distinct by-law of the bank prohibiting the general manager of the bank from making advances to any persons, firm or corporation over \$10,000 without the approval of the board at a regular meeting. Advances were made by the general manager to the extent of \$50,000 in this connection before the matter was drawn to the attention of the board, when a credit for some minor amount was obtained, and the minutes afterward falsified, so as to permit him to do what he saw fit. The original company having liquidated there is no authority upon the books of the bank permitting any advance to be made to the Keeley Mine Limited, neither is there any record whatsoever of the transaction having come before the board, excepting in one instance, where the bank is compelled to take over the Beattie Nesbitt stock in the hope of saving the advances made upon his credit. The board of directors deny absolutely, and completely, any knowledge whatsoever of the fact that the bank was advancing to the mine, and if they are able to convince the court that, individually, or severally, they had no such knowledge, it will then be apparent that the general manager carried these transactions through upon his own responsibility.

The propriety of the whole transaction is open to question, particularly when, as you will observe, the bank was expected to, and did put up the whole of the money for the purchase and operation of the mining company, when, at the most, it was to receive one-fourth of the profits, which might have been made from the undertaking, and stand the whole of the loss. There can be no doubt that the general manager of the bank was in a position of trust and it was his abuse of his position which allowed this condition of affairs to obtain.

We now come to the last item on the statement, Keeley Mines stocks and bonds account, \$535,000. It is in regard to this item in particular that action was taken against the general manager of the bank on the ground that he rendered false returns to the government; but \$75,000 of that amount represents actual cash expenditures by the bank in purchase of stock of the Keeley mine, and this \$75,000 represents \$60,000 credited to Beattie Nesbitt in liquidation of debts which he owed to the bank in consideration of his passing over to the bank \$250,000 Keeley Mine stock, \$10,000 to F. Crompton for \$100,000 stock in Keeley Mine Company, and \$5,000 to F. C. Whitney for \$50,000 stock in Keeley Mine Company.

The remainder of the account has been used to cover up losses made by the bank, and excepting to the extent of about \$156,000, which amount it is claimed the general manager of the bank obtained for his own personal purposes, transferring \$150,000 of Keeley Mine stock on account thereof.

It was partly in regard to part of this latter item that the Crown took criminal action against him.

So far as I can make out, the position assumed by the manager of the bank was that, as the bank had obtained \$500,000 of stock in the Keeley Mine, as a bonus for financing it, he had the right to allocate to this stock such value as he should see fit, and to charge up against that value any amounts which the bank might lose, or that he might think necessary in order to present a profit sufficient to allow him to pay dividends. To this contention, I am utterly unable to agree.

The board of directors claim to have had absolutely no knowledge of what was being done in this connection, and there is nothing in the minutes of the bank to show that the matter came to their attention. It will, however, be necessary for the directors to prove to the court that they had no knowledge of it, for as members of the board will no doubt appreciate, it was quite possible for them to have thoroughly canvassed the situation from time to time, and deliberately left the particulars of the discussion out of the minutes of the bank.

The item was carried in the government returns under the heading of 'Stocks and Bonds Account' and the question must surely arise as to why the directors did not obtain particulars of what the stocks and bonds were when they were considering the statements of the bank from time to time. It is possible, but it would seem almost improbable that they did not do so. In my opinion, however, and without casting reflection upon the directors personally, it would seem to me that the board was one particularly unfitted to be a board of a financial institution, in as much as many of the members were not familiar with financial matters.

The statement of affairs discloses a nominal deficiency of \$436,000. This does not cover all the losses made by the bank by a considerable amount, as you will realize from what I have just told you. So far as I can ascertain the bank has lost at least \$780,000 in its four years in business. The amount disbursed in organization expenses and stock subscriptions was not less than \$55,000, and very probably it will be found to have been considerably more. The business of the bank has been conducted at a loss from the beginning. In 1907 its expenses were greater than its profits by \$66,666; in 1908 its expenses were greater than its profits by \$44,975, and in addition that year paid a dividend aggregating \$19,344; in 1909 its expenses were greater than its profits by \$30,422, and in addition to that paid dividends of \$22,410; in 1910 it lost \$46,255 and in addition paid a dividend of \$11,324. In the four years

SESSIONAL PAPER No. 110b

of its existence, therefore, its losses in business (apart from bad debts) amounted to not less than \$171,319, while it paid dividends to the extent of \$53,078 out of capital.

Beyond these losses on operation, the bank stands to lose at least \$440,000 on bad debts (in addition to \$30,000 or \$40,000 which is lost by reason of defalcations)—the total amount of these items aggregate about \$780,000, and they were charged \$234,000 against Keeley mines stock and bonds account, \$110,000 against other accounts and left the deficiency of \$436,000 as shown by the statement of affairs. That there will be other losses is undoubted, but it will mean carefully going over the books before they can be ascertained.

The Keeley mine stock account of \$535,000 includes \$75,000 paid for stock in the Keeley mine, \$234,000 of losses, \$156,000 money taken by the manager and the balance of \$70,000 charged up for other items. I carried this account in the statement of affairs at its fact value by reason of the bank owning \$1,025,000 stock in the mining company, which stock may, or may not have a value according to the disposition which it may be found possible to make of the mine in future. I have not had the mine valued for the reason that any valuation made would be criticised, and I deem it distinctly against your interests and the interests of the bank that any statement should be made which would have an effect either of creating too much optimism in your minds or else of depreciating the price and perhaps compelling the bank thereby to take a lesser price than it might be able to obtain under other circumstances. Already a number of inquiries have been made for the mine, and it is probably that these inquiries would not be made unless the mining property had a substantial value, either speculative or in fact.

Considering the whole position of affairs of the bank, therefore, you will see that the prospect is not at all bright; shareholders can look for no return, but, on the other hand, I see little chance of their escaping a double liability. I do not advise creditors to look for more than a partial return of their claims, but I am not prepared at this time to make any estimate as to what this return will be.

It is apparent that the bank commenced business when it should not have done so; there was an impairment in its capital from the very start; the class of business which it took, excepting in the country branches, was not good, and in too many instances the bank supported undertakings to which it was lending money. Under these conditions the bank would have had a hard enough road to hoe anyway, but, when undertakings were entered into and the bank's money loaned to corporations in which an executive officer of the bank had a personal interest, it is apparent that its chances of success were not increased, and when the general manager of the bank undertook to abuse his trust and to use the moneys of the bank for his own personal benefit, violating the criminal laws and the by-laws of the bank and the confidence of everybody concerned, there could be but one end to it. As I have before stated, the personnel of your board of directors was not a means of strength so far as looking after the interests of the bank, under these circumstances, was concerned, in as much as they were hardly capable of discovering a number of the transactions entered into had they been alive to the necessity of investigating them, although I cannot see how they should have overlooked inquiring into the quality of the assets disclosed by the annual statements. If they are able to show to the courts that they were innocent of the condition of affairs, then I think you can attribute the failure of this bank to the dishonesty of the general manager.

RE KEELEY MINES.

On the 18th April, 1908, Dr. Beattie Nesbitt obtained an option on the property for \$300,000, payable \$50,000 on the 18th May, and the balance in instalments spread over a period of time.

On the 18th May, 1908, Dr. Beattie Nesbitt entered into an agreement under the terms on which Wishart, Travers and the Farmers' Bank were to participate in all

1 GEORGE V., A. 1911

benefits received by him from the option, and on the same day, he executed an additional agreement to the effect that he was not to deal with the option without the consent of the Farmers' Bank.

In May, 1908, the Keeley Jowsey Wood Mine Limited was formed, and, at a meeting of the Provincial Directors held in May, a resolution was passed by the Board to purchase the option from Dr. Beattie Nesbitt, and to issue to him the whole of the capital stock except \$25, the capital stock to be \$1,000,000 in payment for the option. On the same day, Wishart was elected President of the company, Nesbitt Vice-President and Travers was the third Director.

On the 20th May, the bank made an advance to Wishart of \$25,397, and to the Keeley Jowsey Wood Mine of \$25,000, apparently to take care of a payment of \$50,000 to be made under the terms of the option agreement on or about 18th to 20th May. There was no authority at this time given to Travers to advance the money of the bank; such authority was not obtained until June 17 following. The by-laws of the bank prohibited the Managing Director from lending more than \$10,000 of the bank's funds to any person, firm or corporation without specific authority of the Board.

On June 17th, 1908, a credit to some amount in four figures was given to the Keeley Jowsey Wood Mine Limited, and approved of by the Board of Directors, subsequently, the minutes authorizing this advance was changed, so that in its changed form it permitted the General Manager of the bank to advance to the mine in his discretion. It is claimed that the change in these minutes constituted a forgery and the Crown are taking action in connection therewith.

The bank continued to advance money to the mining company, in large amounts, until December, 1908, when the shareholders of the Keeley Jowsey Wood Mine agreed to sell its assets, subject to its liabilities, the liability to the bank then being about \$150,000 to the Keeley Mine Limited, on condition that the stock in the latter, which amounted to two and a half million dollars was to be issued, one-fifth to Travers, one-fifth to Nesbitt, one-fifth to Wishart, and one-fifth to the Farmers' Bank, and the balance to remain in the treasury. This transaction was put through and the Keeley Jowsey Wood Mine was wound up, Fitzgibbon, the chief accountant of the bank, being the liquidator.

No authority appears on the books of the bank authorizing any advance to the Keeley Mine Limited, the Keeley Mine however assumed the liability of \$150,000 of the Keeley Jowsey Wood Mine, and from that time forward, the bank loaned to the company another \$471,000 so that at this date, the mining company is indebted to the bank in \$621,000 for actual cash advanced. Of this \$621,000 advanced to the mine, the general manager of the bank, Travers, took for his own benefit, \$35,000 in two amounts of \$15,000 and \$20,000. The \$15,000 obtained on October 6th, 1909, from the bank, when he discounted a note of the Keeley Mine in the bank for \$15,000, and had the proceeds put to his own credit, subsequently using the same.

The mining company books show this advance of \$15,000 from the bank, and they also show the Manager Travers, indebted to the company in the same amount, but, in the statements of the mining company rendered to its shareholders, both of these items are eliminated and not shown, showing that Travers was deceiving the shareholders of the mining company.

With regard to the \$20,000, it covers an amount obtained from the bank by Travers on November 3, 1910, when he discounted a note of the Keeley Mine in the bank and had the sum put to his credit. This note is still in the bank, but the mining company has never received any of the money nor did it get any benefit. This means that out of the \$621,000 advanced to the mine, \$35,000 went to Travers for his personal use, and \$585,000 apparently to the company.